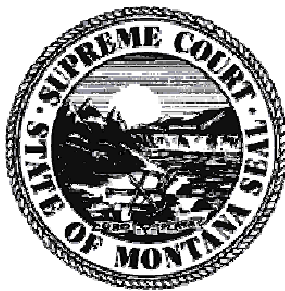


FILED

January 15 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA



IN THE SUPREME COURT OF THE STATE OF MONTANA
THE OFFICE OF THE CLERK OF SUPREME COURT
HELENA, MONTANA 59620-3003

January 15, 2010

NOTICE OF DEFICIENT PLEADING

Supreme Court No.
DA 09-0510

STATE OF MONTANA, EX REL. DEPARTMENT
OF ENVIRONMENTAL QUALITY,

Plaintiff and Appellant,

v.

BNSF RAILWAY COMPANY, and SWANK ENTERPRISES

Defendant, Appellee and Cross-Appellant.

This office is returning your pleading for non-compliance with the Montana Rules of Appellate Procedure. Please correct the deficiency and re-submit your pleading to this office.

(Request for withdrawal needs proposed order, copies of order and stamped addressed envelopes for all counsel)

Sincerely,

A handwritten signature in blue ink, appearing to read "Ed Smith", is written over a horizontal line.

ED SMITH
Clerk of the Supreme Court